

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALA EMET
828 Red Lion Road, Apartment C25
Philadelphia, PA 19115,

Plaintiff

v.

BJ'S WHOLESALE CLUB, INC.
d/b/a BJ's Wholesale Club
2044 Red Lion Road
Philadelphia, PA 19115,

Defendant.

CIVIL ACTION NO.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 132, 1441 and 1446, Defendants BJ's Wholesale Club, Inc., with a principal place of business in Westborough, Massachusetts, hereby remove the above-captioned action from the Philadelphia County Court of Common Pleas, to the United States District Court for the Eastern District of Pennsylvania, based upon the following:

1. On or about September 10, 2021, Plaintiff, Ala Emet, commenced a civil action by filing a Complaint in the Philadelphia County Court of Common Pleas. See Exhibit "A".
2. The Complaint and Notice to Defend where thereafter sent to Defendants.
3. Pursuant to 28 U.S.C. § 1446 (a), true and correct copies of the Notice to Defend and Complaint were sent to Defendants, are attached hereto as Exhibit "A".
4. Pursuant to 28 U.S.C. § 1446(b), this Notice is being filed with this Court within thirty (30) days of the Defendant's first receipt "through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based."
5. This Honorable United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because this is a civil action in which there is complete

diversity of citizenship between Plaintiff and Defendants, and in which the amount in controversy exceeds \$75,000, exclusive of interest and costs, as described below.

6. Based upon the allegations in the Complaint, Plaintiff is a citizen of the State of Pennsylvania, residing at 828 Red Lion Road, Apt. C25, Philadelphia, PA 19115.

7. The Complaint alleges that on or about September 16, 2019, Plaintiff, was injured at BJ's in Philadelphia, PA.

8. Defendant, BJ's Wholesale Club, Inc. is not a Pennsylvania Corporation and has a principal place of business in Westborough, MA. It is not a citizen of Pennsylvania.

9. None of the Defendants entities named as Defendants in this matter are citizens of the State of Pennsylvania.

10. The jurisdiction in state court is unlimited damages and Plaintiff has provided no limitation of damages being below \$75,000.

11. While Defendants deny all liability to Plaintiff and deny that she is entitled to any of the relief sought by the Complaint, based upon the allegations of the Complaint and the injuries alleged, and based upon information and belief, the amount in controversy exceeds the \$75,000 jurisdictional amount under 28 U.S.C. § 1332.

12. Therefore, this civil action is removable to this Court pursuant to 28 U.S.C. § 1441.

13. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being submitted for filing with the Prothonotary of the Philadelphia Court of Common Pleas and being served upon Plaintiff.

14. In filing this Notice of Removal, Defendants do not waive any defects in service of process, venue or personal jurisdiction.

15. For the foregoing reasons, this United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a).

MORRISON MAHONEY LLP

BY: 

Neil A. Tortora, Esq.

I.D.# 318258

ntortora@morrisonmahoney.com

Morrison Mahoney LLP

Waterview Plaza

2001 U.S. Highway 46, Suite 200

Parsippany, NJ 07054

Attorneys for Defendant,

BJ's Wholesale Club, Inc.

CERTIFICATION OF SERVICE

I hereby certify that on this date, I caused to be served via Federal Express and E-Mail a true and correct copy of the foregoing Notice of Removal on:

Lawrence Kalikhman, Esq.
Kalikhman & Rayz, LLC
1051 County Line Road, Suite A
Huntingdon Valley, PA 19006

The Prothonotary of Philadelphia County
Finance Unit
Room 282, City Hall
Philadelphia, PA 19107

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.

Dated: September 27, 2021



Neil A. Tortora, Esq.

EXHIBIT A

USTED ESTA ORDENADO COMPARECER EN Arbitration Hearing 1880 JFK Blvd. 5th fl. at 09:15 AM - 07/08/2022

You must still comply with the notice below. USTED TODAVIA DEBE CUPLIR CON EL AVISO PARA DEFENDERSE.

This matter will be heard by a Board of Arbitrators at the time, date and place specified but, if one or more parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties.

There is no right to a trial de novo or appeal from a decision entered by a judge.

KALIKHMAN & RAYZ, LLC

By: Lawrence Kalikhman, ID #03624

1051 County Line Road, Suite "A"

Huntingdon Valley, PA 19006

Phone: (215) 364-5030

Facsimile: (215) 364-5029

ATTORNEYS FOR PLAINTIFF
Attested by the
Office of Judicial Records

10 SEP 2021 01:26 pm

**THIS IS AN ARBITRATION MATTER -
ASSESSMENT OF DAMAGES
REQUIRED**

ALA EMET

828 Red Lion Road, Apartment C25
Philadelphia, PA 19115

Plaintiff

vs.

BJ'S WHOLESALE CLUB, INC.,

d/b/a BJ's Wholesale Club

2044 Red Lion Road

Philadelphia, PA 19115

Defendant

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY, PA

SEPTEMBER TERM, 2021

NO.:

CIVIL ACTION—LAW

CIVIL ACTION COMPLAINT

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
ONE READING CENTER
PHILADELPHIA, PA 19107
TELEPHONE: (215) 238-6333

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará mdidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SINO TIENE EL DI-NERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACIÓN DE LICENCIADOS DE FILADELFIA
SERVICIO DE REFERENCIA E INFORMACIÓN LEGAL
ONE READING CENTER
FILADELFIA, PA 19107
TELÉFONO: (215) 238-6333

Plaintiff, by and through her attorneys, Kalikhman & Rayz, LLC, hereby files a Civil Action Complaint against the above-named Defendant. In support thereof, Plaintiff avers the following:

1. Plaintiff, Ala Emet, is an adult individual, citizen, and resident of the Commonwealth of Pennsylvania, residing therein at the above-captioned address.

2. Defendant, BJ's Wholesale Club, Inc. is a business entity conducting business at the above-captioned address that conducts business as BJ's Wholesale Club.

3. Defendant, at all times pertinent hereto, owned, operated, controlled, maintained and possessed the property located at 2044 Red Lion Road, Philadelphia, PA 19115 (the "Premises")

4. On or about September 16, 2019, Plaintiff was a business invitee and lawfully on Defendant's premises when Plaintiff was caused to slip and fall on an accumulation of liquid on the floor that Defendant knew, or in the exercise of reasonable care should have known, existed.

5. Said accumulation of liquid created a foreseeable risk of injury.

6. Defendant failed to warn Plaintiff of the defect and the foreseeable risk of injury.

7. The subject accident and Plaintiff's resulting injuries were caused solely, directly and proximately by the careless and negligent acts or failures to act of Defendant.

8. The careless and negligent acts or failures to act of Defendant, consisted of the following:

- a. Failing to properly and adequately inspect and maintain the premises so as to prevent the hazardous and dangerous condition in, on, and about said premises;
- b. Failing to warn persons lawfully upon the premises of said dangerous and hazardous condition;

- c. Failing to implement some remedial measures, such as placing warnings, barricades, and/or cones, around the dangerous condition when they knew, and should have known for some time, of the dangerous and hazardous condition of the premises;
- d. Causing and/or permitting a dangerous and hazardous condition to exist on the premises, which Defendant knew or should have known, caused an unreasonable risk of harm to Plaintiff and others like Plaintiff;
- e. Failing to properly inspect the premises;
- f. Creating or permitting a foreseeable risk of harm to business invitees to exist on the premises; and
- g. Failing to make said premises reasonably safe.

9. As a result of her slip and fall, Plaintiff suffered serious and potentially permanent injuries or aggravations of injuries.

10. At all times relevant hereto, Plaintiff acted in a careful, cautious, reasonable, and prudent manner and was free of any comparative negligence.

11. At all times relevant hereto, Plaintiff did not assume the risk of injury or accident.

12. Neither the subject accident nor Plaintiff's resulting injuries were caused or contributed to by Plaintiff's acts or failures to act.

13. The subject accident and Plaintiff's resulting injuries were caused solely, directly, and proximately by the careless and negligent acts or failures to act of Defendant.

14. As a direct and proximate result of Defendant's careless and negligent acts or failures to act, Plaintiff suffered personal injuries or aggravations of injuries including, but not limited to, neck, back, upper extremity injuries, nerve damage, post-traumatic anxiety and shock, and various other injuries the exact extent and permanency of which are not yet known.

15. As a further direct and proximate result of Defendant's careless and negligent acts or failures to act, Plaintiff has suffered, and may continue to suffer, great physical and mental pain and anguish resulting in a loss of the enjoyment of life.

16. As a further direct and proximate result of Defendant's careless and negligent acts or failures to act, Plaintiff has been, and may continue to be, obliged to receive and undergo medical attention and care to Plaintiff's great financial detriment.

17. As a further direct and proximate result of Defendant's careless and negligent acts or failures to act, Plaintiff has been, and may continue to be, obliged to expend various sums for ordinary and necessary services that Plaintiff would have performed for Plaintiff's own benefit, but was unable to perform due to Plaintiff's serious and potentially permanent injuries or aggravations of injuries.

18. As a further direct and proximate result of Defendant's careless and negligent acts or failures to act, Plaintiff has lost wages and loss of earning capacity, to which a claim is made herein.

19. As a further result of Defendant's careless and negligent acts or failures to act, Plaintiff has workers' compensation liens, healthcare liens, welfare liens, and/or other liens asserted against her, for which she makes claims herein.

WHEREFORE, Plaintiff, demands judgment in her favor and against Defendant, in an amount less than \$50,000.00.

Respectfully submitted,

BY:



Lawrence Kalikhman, Esquire
Counsel for Plaintiff

Date: September 10, 2021

VERIFICATION

I, the undersigned, hereby verifies that I am the named plaintiff in the foregoing action and that the facts set forth in the Complaint are true and correct the best of my knowledge, information and belief. I am aware that said statements are made subject to the penalties relating to unsworn falsifications to authorities.



ALA EMET